U.S. Senate
Republican Policy
Committee

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Legislative Notice

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S. 947 – Balanced Budget Act of 1997

Calendar No. 91

Reported from the Senate Budget Committee June 20, 1997, by a 19-3 vote. No written report.

NOTEWORTHY

- This legislation is intended to meet the spending reduction ($137 billion over five years) portion of the reconciliation instructions of H. Con. Res. 84, which passed the Senate on June 5, 1997, by a 76-22 vote.

- S. 947 conforms to the balanced budget agreement reached between Congress and President Clinton on May 2, 1997. That agreement stipulated balancing the federal budget in FY 2002 and reducing taxes by $85 billion over five years and $250 billion over ten years. This is to be accomplished with two bills — one implementing changes in federal spending policy and the other implementing changes in federal tax policy, resulting in the first balanced budget since 1969 and the largest tax reduction since 1986.

- Congress has passed three consecutive budget resolutions certified by the Congressional Budget Office (CBO) to result in a balanced federal budget by FY 2002. While a budget resolution — Congress' spending blueprint — does not need the President's signature, the legislation (reconciliation for mandatory and tax legislation, and appropriations for annual or discretionary spending) implementing the budget resolution's outlines do go to the president. In each of the past two years, President Clinton vetoed reconciliation legislation designed to implement Congress' intent to balance the budget by FY 2002.

- This legislation continues to be necessary despite continued improvement in the federal deficit. Without the federal policy changes contained in the reconciliation bill, the deficit under CBO's most recent estimates (without the so-called fiscal dividend that balance will yield) would double to $139 billion by 2002. [See attached table and chart.]

- By unanimous consent, the Senate begins consideration of S. 947 at noon today. While reconciliation legislation requires 20 hours of debate time [see Floor Procedure section], the Leader has indicated his desire to complete action on this bill by mid-week in order for the Senate also to complete action on the revenue bill prior to the July 4 recess.

HIGHLIGHTS

This Notice addresses the policy changes made in accordance with the reconciliation instructions given to eight Senate committees. The process under which this legislation is to be enacted is governed both by law and specific Senate procedure and is discussed at the conclusioı of this Notice [see Floor Procedure section].

- **Getting to a Zero Deficit:** The deficit was $107 billion in FY 1996 and is currently projected to be $67 billion this year. However, without this legislation, it will not get to zero. The positive economic performance to date largely has been due to low inflation and business restructuring at home and the opening of new markets overseas. Without th policy changes contained in the reconciliation legislation, the deficit under CBO's most recent estimates (without the so-called fiscal dividend that balance will yield) would double to $139 billion by 2002. [See attached table and chart.]

- **Medicare:** The Balanced Budget Act of 1997 (BBA 97) makes the most significant changes to the Medicare program — the federal government's health care program for al seniors — since its inception in the 1960s. It modernizes the program by granting new health care options for seniors — while maintaining the traditional system. Further, it more equitably distributes federal payments between geographic regions. It also extends the life of the program's funding mechanism, the Medicare trust fund (known as the HI o Part A trust fund).

- **Medicaid:** BBA 97 also makes much needed changes in the Medicaid program — the federal government's health care program for the needy. It grants vastly expanded flexibility to the states, thus allowing them to build on the reforms and innovations they have already. These program changes will continue to result in significant health care improvements for beneficiaries and cost savings to the federal and state governments.

- **Uninsured Children:** BBA 97 provides for an enormous expansion in the federal effort to extend health insurance to those children currently uninsured. This legislation contain an additional $16 billion specifically designed to provide health insurance to 5 million additional children. (Not included in this bill, but that will follow in the tax reconciliation bill, is an additional $8 billion for this purpose as well.)

- **Enforcement Amendment:** An amendment will be offered by the Budget Committee to help ensure that the agreement reached between Congress and the President will be enforced. This enforcement amendment will include an extension of the discretionary spending caps and the so-called "firewalls" that separate Defense from non-Defense spending.

- **Savings Compliance Amendment:** A further Budget Committee amendment is expected to be offered to bring the savings totals into compliance with the reconciliation instructions (see below).

Reconciled Committees

(Senate Budget Committee Estimates: 5-Year Savings Totals in Billions of $'s)

	Instructed	Reported	Difference
Agriculture, Nutrition, & Forestry*	-1.500	-1.490	0.010
Banking, Housing, & Urban Affairs	1.590	2.055	0.465
Commerce, Science, & Transportation**	26.496	15.896	-10.600
Energy & Natural Resources	0.013	0.013	0.000
Finance	100.646	106.080	5.434
Governmental Affairs	5.467	5.527	0.060
Labor & Human Resources	1.792	1.792	0.000
Veterans Affairs	2.733	2.733	0.000
Total	**137.237**	**132.606**	**4.631**

* Agriculture was the only committee instructed to increase spending; therefore, its reconciliation numbers are listed here as negative numbers, that is, they do not represent savings.
** Commerce was the only committee that did not meet its instructed savings.

BILL PROVISIONS

Committee-by-Committee Reconciliation Summary

AGRICULTURE, NUTRITION AND FORESTRY

Instructed Savings: - $1.5 billion
Achieved Savings: - $1.49 billion

Under the FY 1997 budget resolution, the Committee was allocated $1.5 billion in new spending over five years to be spent on food stamps; thus the committee was instructed to spend more, not achieve savings. The bipartisan budget agreement provided the money in order to assist able-bodied adults aged 18-50 without dependents who might lose their eligibility under the new welfare law because they were not working or were not in a job training program. Of this total:

- $580 million would be spent to allow states to exempt up to 15 percent of this group from the new requirement; and

- $910 million would be provided to increase funding for the existing food stamp employment and training program to provide additional workfare and job training slots for this group.

BANKING, HOUSING AND URBAN AFFAIRS

Instructed Savings: $1.590 billion
Achieved Savings: $2.055 billion

The Committee unanimously approved a package of housing-related savings for its part of the budget reconciliation bill. The package would:

- Reduce rental subsidies under the Section 8 subsidized housing program. The plan would reduce by 1 percentage point the market-based rent increases paid by the government to owners of property in which there is no tenant turnover.

- Replace HUD's mortgage assignment program with a new program to provide HUD greater flexibility in providing temporary foreclosure relief to borrowers who default on their federally insured mortgages.

- Restructure project-based Section 8 contracts that are oversubsidized through a "mark to market" program that would reduce discretionary spending on Section 8 subsidies and reduce future losses anticipated in the FHA multifamily insurance program.

- Set a minimum rent of up to $25 per month for families with project-based Section 8 assistance.

- Eliminate federal preference rules for project-based Section 8 assistance, in order to improve the income mix in federally subsidized projects.

COMMERCE, SCIENCE, AND TRANSPORTATION

Instructed Savings: $26.496 billion
Achieved Savings: $15.896 billion

The Committee reported out its budget reconciliation package that would:

- Extend vessel tonnage duties at current law levels from 1999-2002.

- Extend and broaden Federal Communications Commission (FCC) authority to auction spectrum, extending the FCC's auction authority to the year 2007.

- Direct the FCC to find 100 megahertz of spectrum to auction and the National Telecommunications and Information Administration to locate an additional 20 megahertz of government spectrum to auction.
- Auction a portion of TV channels 60-69.
- Ensure that each broadcaster give back the spectrum being used for analog transmission by December 31, 2006, unless less than 95 percent of households in a given market have access to digital local television signals, either over the air or through other means.
- Delete the Administration's provision that would have authorized the auction of the 888 "vanity" phone numbers.
- Delete the Administration's provision that would have given the FCC authority to assess fees to users of spectrum.

ENERGY & NATURAL RESOURCES

Instructed Savings: $13 million
Achieved Savings: $13 million

The committee met its reconciliation instructions by increasing receipts as follows:

- The Secretary of Energy is authorized to lease underutilized storage capacity in the Strategic Petroleum Reserve facilities. Estimated savings: $13 million over five years.

FINANCE

Instructed Savings: $100.646 billion
Achieved Savings: $106.080 billion

Summary
(SBC estimates: 5-year totals in billions of $'s)

	Budget Agreement	Committee Report	Difference
Medicare	115.000	117.800	2.800
Medicaid	13.625	16.900	3.275
Children's Health	-16.000	-16.000	0
Welfare/TANF	-3.000	-2.900	0.100
SSI	-9.700	-10.350	-0.650
Raise Unemployment Ceiling	0.624	0.624	0
Total Instruction*	100.646	106.080	5.434

* Figures do not add due to omission of minor provisions.

Medicare

- Medicare delivers $117.8 billion in savings relative to the baseline over five years, roughly split as follows: spending reductions ($100 billion) and Part B premium increases ($15 billion). The policy reforms reported out of the Finance Committee will result in approximately $446.2 billion over 10 years.

- The Part A or Hospital Insurance (HI) trust fund was projected in its 1997 trustees' report to go bankrupt in 2001. By virtue of the partial transfer of home health care spending ($30.7 billion rather than the $86.4 billion included in the latest Clinton budget) to the Part B trust fund (which is 75 percent subsidized by the general fund) and the policy changes made here, the Part A trust fund is projected to remain solvent to 2007. This provides the time needed to develop a plan to place Medicare on a sound, long-term financial footing.

- The committee's report institutes the Medicare Choice program. Modeled on the federal government's FEHBP program for its employees, this program is a far-reaching expansion of health care provider options that will bring Medicare into line with the innovations of the private sector — while at the same time strengthening the traditional Medicare system.

- The Medicare Choice will allow preferred provider organizations (PPOs), provider sponsored organizations (PSOs), and point of service plans (POS) to participate along with HMOs and the traditional fee for service program in the Medicare system. Payments to the new plans would be based on those made to HMOs (with some alterations). In addition to whatever expanded benefits these particular providers choose to offer, Medicare will add the following new benefits system-wide: expanded mammography coverage, colorectal screening, diabetes self-management, and higher provider payments for preventative vaccines.

- Medicare reimbursement rates will be equalized across geographic regions. This will lead to greater penetration of health care options in heretofore underserved regions. This equalization will be phased-in and will be done in such a manner that no areas will receive a decrease in payments.

- Part B premiums are permanently set at a 25-percent rate (of the total cost of services) with the costs associated with home health services phased-in to the premium base over a seven-year period.

- Among the many payment changes, a prospective payment pricing system is instituted for home health providers, skilled rehabilitation departments, and outpatient departments.

- Among the controversial elements are: a 24-year-phase-in increase of the eligibility age from 65 to 67; a $5 home health care copayment; and means testing for wealthy individuals' deductibles under Part B.

- Medical Savings Accounts (MSAs) are allowed into the Medicare system as a demonstration program. The total number of beneficiaries was reduced from 500,000 (in the chairman's mark and in the House bills) to 100,000 beneficiaries.

Medicaid

- Disproportionate Share Hospitals (DSH — those dealing with a number of indigent patients; this program has been a frequent source of funding abuse in the past) payments would be lowered by freezing "very low DSH" states at their 1995 levels and phasing out "high DSH" and "low DSH" states' mental health payments from their 1995 allotment amounts. Both "high DSH" and "low DSH" states would get percentage reductions from their 1995 amounts as well. Combined, these provisions save $12.6 billion over five years.

- State flexibility would be greatly enhanced in line with the national governors' request. Such flexibility has already resulted in increased coverage of individuals and cost savings to both the federal and state governments. Examples of flexibility in this bill include repeal of the Boren amendment that has resulted in frequent suits against the states, and the allowance for the Medicaid payment rate to be used as a benchmark for determining payment-in-full for Medicare beneficiaries who are entitled to Medicaid coverage of Medicare cost sharing (savings: $5 billion over five years).

- Finance did not provide any new funding to low-income Medicare beneficiaries (SLIMBs — "slim-bees").

- Matching rate funds are increased for the District of Columbia, Puerto Rico, and other territories at a cost of $300 million over five years.

Child Health Care

- The budget agreement provided for $16 billion to be spent over five years to insure currently uninsured children. This amount was $10 billion higher than the Clinton request of $6.4 billion in his FY 1998 budget and is equal to 80 percent of the funding called for in the Hatch-Kennedy proposal. The child health care proposal was the compromise included in the chairman's mark (and was perhaps the most contentious one in the Finance Committee's markup): It would allow a state to choose between the Chafee-Rockefeller proposal to expand Medicaid coverage in this area or to accept a block grant to institute their own programs. In either case, states would be required to cover all children below the federal poverty level and up to age 19 in Medicaid, and would be required to maintain their level of spending for children's health, and Medicaid prohibitions on provider taxes and donations and other fraudulent activities would be extended to the children's health program as well. States also would be required to use 1 percent of the new funds for Medicaid outreach. States would be allowed to provide 12 months of continuous Medicaid coverage for children. (An amendment to make the Chafee-Rockefeller proposal the sole proposal was defeated 9-11.)

Welfare

- Supplemental Security Income (SSI): The committee reported $10.35 billion to restore SSI and Medicaid benefits for disabled legal noncitizens (including the elderly disabled) who are currently enrolled (or will be enrolled) in the SSI program prior to September 30, 1997. This amount includes the Medicaid costs (function 550) and is $650 million above the reconciliation instructions.

- Welfare to Work: The committee reported $2.9 billion for the TANF (welfare to work block grant) over the next four years to be distributed through a targeted formula.

- Unemployment Insurance: The committee reported $624 million to increase the ceiling of the federal FUTA-funded accounts in the Unemployment Trust Fund to increase solvency.

- Raise Unemployment Ceiling: The committee reported $1.38 billion in savings.

GOVERNMENTAL AFFAIRS
Instructed Savings: $5.467 billion
Achieved Savings: $5.527 billion

The Committee exceeded its reconciliation instructions, reducing budget outlays in FY 1998 by $632 million and by $5.527 billion over the five-year period ending in FY 2002. The plan would make the following changes:

- Increased Agency Contributions to Civil Service Retirement and Disability Fund: All agencies would be required to increase their payment to the Civil Service Retirement and Disability Fund for their employees enrolled in the Civil Service Retirement System (CSRS). For the four fiscal years 1998 through 2001, contributions are increased by 1.51 percent. For FY 2002, the contribution is increased to 1.6 percent. The policy change under the agreement totals savings of $2.933 billion over five years.

- Increased Employee Contributions: All employees participating in CSRS and the Federal Employees Retirement System (FERS), including congressional, U.S. Postal Service, and judicial employees, will pay an increased contribution rate in 1999 by .25 percent; an additional .15 percent in 2000; and by an additional .10 percent in 2001. The cumulative increase of .5 percent will remain in effect through FY 2002. Agencies are not required to make the increased employer contribution to FERS. This policy under the agreement totals $1.829 billion over five years.

- Repeal of Postal Transition Payments: The permanent authorization of transitional appropriations for the U.S. Postal Service workers compensation would be repealed. The cost in 1998 is $35 million, with the amount decreasing in future years. It has been determined that it is time to transfer responsibility for the fund to the Postal Service. The five-year savings is $165 million.

- GSA Property Sales: The Administrator of GSA is required to sell Governor's Island, New York, at fair market value, with the State and City of New York being given the first offer to purchase. This area has been vacated by the U.S. Coast Guard. CBO has scored the sale at $500 million. The Administrator is also required to sell the 16.3 acres of "air rights," or air space, above train tracks north of Union Station in Washington, D.C. The air rights currently are owned by the Department of Transportation and AMTRAK. CBO has scored this sale at $40 million.

- Federal Employees Health Benefits (FEHB): Authorizes a "Fair Share formula" to replace the Big-6 Phantom formula that had been authorized by Congress since 1989 and expires in 1998. The Fair Share formula sets the government's contribution at 72 percent of the weighted average of the premiums of all plans in the program, and maintains the cap of 75 percent for any particular plan. CBO scored the savings of $28 million over five years.

LABOR AND HUMAN RESOURCES
Instructed Savings: $1.792 billion
Achieved Savings: $1.792 billion

- Recalls $1.028 billion in excess agency reserves. The committee requires each Guaranty Agency to deposit its share of the total excess reserves into a newly created restricted account in annual payments over the next five years. In the year 2002, the $1.028 billion within the reserve accounts will be deposited directly to the Treasury.

- Eliminates the Direct Lending Loan Origination Fee for savings of $160 million. The committee's proposal repeals the provision authorizing the federal payment of $10 per loan to schools and/or alternate originators who make direct loans. This repeal extends for five years a provision currently contained within the FY 1997 Labor, HHS, Education and Related Agencies Appropriations bill.

- Reduces expenditures for Department of Education administrative expenses associated with the direct lending program as well as the administrative cost allowances paid to guaranty agencies for administration of the guaranteed loan program. This proposal reduces section 458 expenditures to conform with anticipated needs, resulting in savings of $604 million over five years.

VETERANS' AFFAIRS
Instructed Savings: $2.733 billion
Achieved Savings: $2.733 billion

The Committee approved the following package that would:

- Renew the Department of Veterans Affairs' authority to recover private health insurance proceeds and to charge copayments for prescription drugs, hospital stays and other services, and authorize the VA, for the first time, to retain such proceeds for the financing of veterans' health care. Estimated savings: $641 million over five years.

- "Round down" to the nearest dollar the annual cost of living adjustment (COLA) in benefits for disabled veterans and their dependent survivors, saving $391 million.

- Extend previously increased home loan fees, create new fees for VA financing of home purchases, and extend previously enacted property management provisions. Estimated savings: $934 million over five years.

- Extend VA authority to IRS data to assure eligibility for "means-tested" benefits. Savings: $40 million over five years.

- Limit VA payments of pension benefits when a veteran is in Medicaid-financed nursing home care. Savings: $637 million over five years.

- Authorize the VA to withhold from tax refunds and federal salaries in order to collect debts on defaulted home loans. Savings: $90 million in FY98.

FLOOR PROCEDURE

Some Quick Highlights For Floor Consideration of Reconciliation Bills

- The motion to proceed to the consideration of a reconciliation bill is not debatable.
- Per the Congressional Budget Impoundment and Control Act of 1974, as subsequently amended, floor debate on the Senate reconciliation bill totals 20 hours, equally divided between Republicans and Democrats.
- Time spent on quorum calls (unless otherwise agreed to by UC) and votes are not counted against the time limit.
- There is a two-hour time limit on all amendments offered in the first-degree; and that time must expire, or be yielded back, before a second-degree amendment can be offered to the pending first-degree amendment.
- There is a one-hour time limit on all second-degree amendments.

- Any debatable motions or appeals of the Chair's ruling also carry a one-hour time limit.
- Time on all the preceding is equally divided, and is subtracted from the bill. In an ideal world, this would mean that proponents and opponents agree to use the same amount of time on each amendment or motion, up to the maximum allowed. But in the world of U.S. budget process, it also means that if proponents use one hour on a first-degree amendment, but opponents only use 10 minutes, then yield back time, the total time — 70 minutes — is equally divided, and 35 minutes are subtracted from the bill time on each side.
- If neither side yields time (i.e., if no one is conducting any business on the bill, but no quorum call is in progress), the Chair has the right to charge time equally from both sides.

How To Tell If Your Amendment is in Order

Amendments to a reconciliation bill must be germane, otherwise a 60-vote point of order could be raised. Under the precedents of the Senate, germaneness is a more narrow concept than "relevance," which only requires a subject matter relationship. The following types of amendments are *per se* germane:

- Committee amendments;
- Amendments to strike;
- Amendments to change numbers or dates; and
- Non-binding amendments limited to matters within the jurisdiction of the committee of the reported bill; however, all amendments of this nature would violate the Byrd rule and be subject to a 60-vote point of order.

For any amendment that does not fall into one of the categories above, germaneness is determined on a case-by-case basis by the Parliamentarian. But, in general, the amendments:

- Must be relevant; and
- Must substantively restrict or limit some power, authority, duty, class, or other provision of the underlying bill or amendment.

All amendments must be offset and germane in order to avoid a Budget Act point of order. However, motions to strike are always in order.

Amendments are ***not*** in order to the reconciliation bill if they reduce any specific budget outlay below the level provided or if they reduce revenue increases below the level provided — unless the amendment makes a reduction in other specific outlays, an increase in other specific revenues, or a combination thereof that is at least equivalent to the outlay increase or revenue decrease in the amendment. Otherwise, the amendment would be subject to a 60-vote point of order.

Employing the Byrd Rule

An amendment to the Budget Impoundment and Control Act enacted in 1985 offers some protection to reconciliation bills from the inclusion of "extraneous" material. This rule, named after its primary sponsor, Senator Robert C. Byrd (D-WV), applies the following rules (in addition to the preceding ones pertaining to germaneness) to remove material from a reconciliation bill when it is being considered on the floor. Under Byrd Rule procedures, it also applies to reconciliation conference reports. The Senate Budget Committee is obliged to report to the Senate a list of extraneous provisions.

If a Byrd Rule point of order against a provision in the bill is sustained, the offending provision is stricken from the bill. A waiver of the Byrd Rule requires 60 votes. Material is considered extraneous if it:

- Doesn't change outlays or revenues (unless it is a term or condition of a provision that does produce such a change);
- Increases the deficit *if* the committee has failed to meet its instruction;
- Is a provision from a committee which has no jurisdiction over the provision;
- Would produce changes in outlays or revenues which are incidental to the non-budgetary components of the provision;
- Creates a net outlay increase or a revenue decrease in the year following the scoring window (i.e., any year beyond FY 2002); or
- Affects the receipts or outlays of the Social Security trust fund.

POSSIBLE AMENDMENTS

Note that eight committees were given reconciliation instructions. Each committee had amendments offered in its particular markup — for example, 263 amendments were submitted in the Finance Committee. In addition, members of the Budget Committee can be expected to offer amendments on the floor. For this reason, it is impossible to provide a comprehensive list of possible amendments. Staff concerned with particular areas would be best advised to contact the committee of jurisdiction for amendments in their area of concern. Below is a partial list of probable amendments. In addition to amendments, it is anticipated that points of order will be raised against provisions in the bill thought to violate the so-called "Byrd rule" (see Floor Procedure section, above, for details). If such a point of order is raised, and if upheld by the chair, 60 votes are required to overrule it.

Domenici. To extend existing budget enforcement mechanisms.

Domenici. To achieve full savings instructions in the jurisdiction of the Commerce Committee.

Craig. Change existing budget rules by establishing a Budget Act point of order against using a tax increase to offset new mandatory spending.

Abraham. Require revenues in excess of projected levels to be used for tax reductions.

Frist. Create a point of order against actions that would result in a deficit after FY 2002.

Gramm. Allow discretionary cuts to offset tax cuts under the budget rules.

Kennedy. Increase cigarette tax by 23 cents per pack with proceeds going to uninsured children.

Kyl/Wyden. Gag rule

D'Amato. Patient Protection Act

Wellstone. (His two likely amendments were unknown at press time.)

Wellstone.

Additionally, the following amendments are anticipated, but sponsors are unknown:

Fully restore coverage for legal immigrants in the U.S. prior to August 23, 1997, but who become disabled after that date.

Add Medicaid relief for Puerto Rico and the District of Columbia.

Add $1.5 billion to cover increased premium costs on low-income Medicare beneficiaries (SLIMBs).

Impose SSI administrative fee on states per budget agreement.

Motion to strike change in Medicare age from 65 to 67.

Change means testing of Medicare deductibles to means testing of Medicare premiums.

Motion to strike means testing for Medicare.

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[See attachment: Deficit Comparison]

TABLE 1 - Deficit Stream Comparison

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
Baseline Deficit	67.2	89	109.1	121.3	94.5	104.9	103.2	108.6	133.3	127.8	117	1108.6
Fiscal Dividend		1	4	13	24	34	41.8	48.7	55.6	62.8	70.2	355.1
Actual Deficit	67.2	90	113.1	134.3	118.5	138.9	145	157.3	188.9	190.6	187.2	1463.8
Agreement Deficit	67.2	90.4	89.7	83	53.3	-1.3	-4.6	-19.8	-23.9	-29.5	-34.4	202.9
Deficit Difference	0	0.4	-23.4	-51.3	-65.2	-140.2	-149.6	-177.1	-212.8	-220.1	-221.6	1260.9

CHART 1